UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TENNESSEE AT KNOXVILLE

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
V.)	NO. 3:11-CR-25
)	Phillips/Shirley
)	_
DAVID MINER)	
)	
Defendant.)	

MOTION TO EXCLUDE

Comes the defendant, David Miner, by and through undersigned counsel, and respectfully moves this Honorable Court to enter an Order, excluding evidence and information contained in discovery provided by the government to defense counsel on November 13, 2012. In support of his motion, Mr. Miner shows as follows:

- 1. Magistrate Judge Shirley ordered that the government provide discovery by May 4, 2011. (R. 10, Order on Discovery and Scheduling).
- 2. One year, six months, and nine days after the discovery deadline, the government provided counsel with a Compact Disc of "additional discovery." The CD contained 39 .pdf files consisting of 880 pages of documents. These documents were provided three weeks prior to the start of trial.
- 3. The appropriate remedy for such a violation of Judge Shirley's order is exclusion from trial of the documents and the information contained there-in,

pursuant to Rule 16(d), Federal Rules of Criminal Procedure.

Respectfully submitted this 15th day of November, 2012.

FEDERAL DEFENDER SERVICES OF EASTERN TENNESSEE, INC.

s/ Laura E. Davis Laura E. Davis, No. 28638 800 S. Gay Street, Suite 2400 Knoxville, TN 37929 (865) 637-7979

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2012, a copy of the foregoing Motion in Limine was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

____s/ Laura E. Davis Laura E. Davis